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EXTRAORDINARY

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MINISTRY OF LAW

New Delhi, the 30th September, 1954

The following Acts of Parliament received the assent of the President on the 29th September, 1954 and are hereby published for general information :—

THE CHANDERNAGORE (MERGER) ACT, 1954

No. 36 OF 1954

[29th September, 1954]

An Act to provide for the merger of Chandernagore into the State of West Bengal and for matters connected therewith.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Chandernagore (Merger) Act, 1954.

(2) It shall come into force on the 2nd day of October, 1954.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the 2nd day of October, 1954;

(b) “Assembly constituency”, “Council constituency” and “Parliamentary constituency” have the same meanings as in the Representation of the People Act, 1950 (XLI of 1950);

(c) “Chandernagore” means the whole of the territory which immediately before the 9th day of June, 1952 was comprised in the Free Town of Chandernagore;

(d) “law” means so much of any enactment, Ordinance, Regulation, order, rule, scheme, notification, bye-law or any other instrument having the force of law as relates to matters enumerated in List I and List III in the Seventh Schedule to the Constitution;

(e) "sitting member", in relation to the House of the People or either House of the Legislature of the State of West Bengal, means a person who immediately before the appointed day is a member of the House;

(f) "State Government" means the Government of West Bengal;

(g) "Union purposes" mean the purposes of Government relatable to any of the matters mentioned in the Union List in the Seventh Schedule to the Constitution.

3. Chandernagore to form part of West Bengal.—(1) As from the appointed day Chandernagore shall form part of the State of West Bengal and the boundaries of that State shall be so altered as to comprise within them the territory of Chandernagore.

(2) Without prejudice to the power of the State Government to alter hereafter the extent, limits and names of districts and sub-divisions, Chandernagore shall form part of the district of Hooghly in the State of West Bengal and the State Government shall, by order in the Official Gazette, provide for the administration of Chandernagore by constituting it into a new sub-division of the said district whether with the addition of such areas of that district as may be specified in the order or without such addition.

4. Amendment of the First Schedule to the Constitution.—In the First Schedule to the Constitution, in Part A, in the description of the territories of States, in the last paragraph, after the words, "as if they formed part of that Province", the following shall be inserted, namely:—

"and in the case of the State of West Bengal shall also comprise the territory of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954,".

5. Representation of Chandernagore in the House of the People.—(1) Until otherwise provided by law, as from the appointed day—

(a) Chandernagore shall be included in, and become part of, the Hooghly Parliamentary constituency formed by the Delimitation of Parliamentary and Assembly Constituencies (West Bengal) Order, 1951 and that Order shall have effect subject to the following modifications, namely:—

In Table A—

(i) for the entry in column 2 relating to Serampore constituency, the following entry shall be substituted, namely:—

"Bhadreswar, Singur, Serampore, Uttarpara, Chanditala and Jangipara police stations of Hooghly District and Domjur and Bally police stations of Howrah District.";

(ii) for the entry in column 2 relating to Hooghly constituency, the following entry shall be substituted, namely:—

"Pandua, Dhaniakhali, Chinsura (excluding Ward No. 1 of Bansbaria Municipality), Polba, Haripal, Tarakeswar, Arambagh, Khanakul and Pursura

police stations of Hooghly District and Chandernagore.”;

(b) the sitting member of the House of the People representing the Hooghly Parliamentary constituency shall be deemed to have been elected by that constituency as modified by this Act.

(2) As soon as may be after the appointed day, the electoral roll of the Hooghly Parliamentary constituency shall be prepared in accordance with the provisions of the Representation of the People Act, 1950 (XLIII of 1950), and the rules made thereunder and the roll so prepared shall come into force immediately upon its final publication.

6. Representation of Chandernagore in the Legislative Assembly of West Bengal.—Until otherwise provided by law,—

(a) there shall be an additional constituency of the Legislative Assembly of West Bengal (to be known as the Chandernagore Assembly constituency) comprising the entire area of Chandernagore, whether with the addition of such areas of other constituencies as may be determined by the President or without such addition and the said constituency shall be represented in that Assembly by one member to be chosen by direct election;

(b) the President shall, as soon as may be after the appointed day and after consulting the Election Commission, amend by order the Delimitation of Parliamentary and Assembly Constituencies (West Bengal) Order, 1951 so as to include therein the Chandernagore Assembly constituency and the particulars relating thereto as required by section 9 of the Representation of the People Act, 1950 (XLIII of 1950);

(c) the total number of seats to be filled by direct election in the Legislative Assembly of West Bengal shall be increased from 238 to 239;

(d) in the Second Schedule to the Representation of the People Act, 1950 (XLIII of 1950), in the part relating to Part A States, for the entry in column 2 against ‘West Bengal’, the entry ‘239’ shall be substituted.

7. Electoral roll of the Chandernagore Assembly constituency.—The electoral roll of the Chandernagore Assembly constituency shall be prepared and published in accordance with the provisions of the Representation of the People Act, 1950 (XLIII of 1950), and the rules made thereunder and come into force immediately upon its final publication.

8. Election to fill the seat allotted to the Chandernagore Assembly constituency.—As soon as may be after the delimitation of the Chandernagore Assembly constituency under the provisions of clause (b) of section 6, there shall be held an election to fill the seat allotted to the Chandernagore Assembly constituency in the Legislative Assembly of West Bengal; and for that purpose the Election Commission shall, by notification in the Official Gazette, call upon the Chandernagore Assembly constituency to elect a person for the purpose of filling that seat before such date as may be specified in the notification and the provisions of the Representation of the People Act, 1951 (XLIII of 1951), and the rules and orders made thereunder shall apply, as far as may be, in relation to such election.

9. Consequences of alteration in the extent of certain Assembly constituencies.—If in consequence of the addition of areas to Chandernagore for the purpose of constituting the Chandernagore Assembly constituency, the extent of any existing Assembly constituency is altered, then—

(a) the electoral roll of the existing Assembly constituency as so altered shall, until it is prepared afresh in accordance with the provisions of the Representation of the People Act, 1950 (XLIII of 1950), and the rules made thereunder, be deemed to consist of so much of the electoral roll as relates to the areas comprised within that constituency as so altered;

(b) every sitting member of the Legislative Assembly of West Bengal representing the existing Assembly constituency shall be deemed to have been elected to that Assembly by that constituency as so altered.

10. Representation of Chandernagore in the Legislative Council of West Bengal.—(1) Until otherwise provided by law, as from the appointed day—

(a) Chandernagore shall be included in, and become part of, the following Council constituencies formed by the Delimitation of Council Constituencies (West Bengal) Order, 1951, namely:—

- (i) the West Bengal South (Graduates) constituency;
- (ii) the Burdwan Division (Teachers) constituency;
- (iii) the Hooghly-Howrah (Local Authorities) constituency;

(b) any reference in the said order to West Bengal, Burdwan Division or Hooghly District shall be construed as including therein Chandernagore;

(c) every sitting member of the West Bengal South (Graduates) constituency, the Burdwan Division (Teachers) constituency or the Hooghly-Howrah (Local Authorities) constituency, the extent of which is by virtue of the provisions of clause (a) altered, shall be deemed to have been elected to the said Council by that constituency as so altered.

(2) As soon as may be after the appointed day the electoral rolls of the West Bengal South (Graduates) constituency, the Burdwan Division (Teachers) constituency and the Hooghly-Howrah (Local Authorities) constituency shall be prepared in accordance with the provisions of the Representation of the People Act, 1950 (XLIII of 1950) and the rules made thereunder and the rolls so prepared shall come into force immediately upon their final publication.

11. Amendment of section 9, Act LXXXI of 1952.—In section 9 of the Delimitation Commission Act, 1952, in sub-section (3), for the words “and the orders made under any of the said Acts”, the words, brackets and figures “the Chandernagore (Merger) Act, 1954 and the orders made under any of the said Acts” shall be substituted.

12. Conferment of Indian citizenship on French citizens domiciled in Chandernagore.—Subject to the provisions of Article III of the Treaty of Cession of the Territory of the Free Town of Chandernagore all French subjects and citizens of the French Union domiciled in the said Territory on the 9th day of June, 1952, shall be deemed to have become citizens of India on that day.

13. Property and assets.—(1) All property and assets within Chandernagore which, immediately before the appointed day, are vested in the Central Government for the purposes of the administration of Chandernagore shall, as from that day, vest in the State Government unless the purposes for which such property or assets are held immediately before that day, are Union purposes.

(2) A certificate of the Central Government signed by a Secretary to that Government shall be conclusive as to whether the purposes for which any property or assets are held immediately before the appointed day are Union purposes.

14. Rights, liabilities and obligations.—(1) All rights, liabilities and obligations of the Central Government arising out of, or in relation to, the administration of Chandernagore shall, as from the appointed day, be rights, liabilities and obligations of the State Government unless such rights, liabilities and obligations are relatable to Union purposes.

(2) A certificate of the Central Government signed by a Secretary to that Government shall be conclusive as to whether any rights, liabilities or obligations arising out of, or in relation to, the administration of Chandernagore are relatable to Union purposes.

15. Subordinate courts.—All courts which immediately before the appointed day are exercising lawful powers, authority and jurisdiction in Chandernagore under the superintendence and control of the High Court at Calcutta shall, until further provision is made by a competent legislature or authority, continue to exercise their respective powers, authority and jurisdiction in Chandernagore under the superintendence and control of that High Court.

16. Existing authorities and officers to continue in Chandernagore.—Without prejudice to the powers of the State Government to appoint from time to time such officers as may be necessary for the administration of Chandernagore, the Administrator of Chandernagore, all judges, magistrates and other officers of Chandernagore who, immediately before the appointed day, are exercising lawful functions in Chandernagore or any part thereof, shall, until other provision is made by the State Government, continue to exercise in connection with the administration of Chandernagore their respective functions in the same manner and to the same extent as before the appointed day.

17. Extension of laws to Chandernagore.—All laws which immediately before the appointed day extend to, or are in force in, the State of West Bengal generally shall, as from that day, extend to, or, as the case may be, come into force in, Chandernagore.

18. Repeal of corresponding laws and savings.—(1) Any law in force in Chandernagore immediately before the appointed day (hereafter in this Act referred to as the "corresponding law") which corresponds to any law referred to in section 17, whether such corresponding law is in force in Chandernagore by virtue of the Chandernagore (Application of Laws) Order, 1950 or by virtue of any notification issued under the Chandernagore (Administration) Regulation, 1952 (Reg. I of 1952) or otherwise, shall, as from that day, stand repealed in Chandernagore.

(2) The repeal by sub-section (1) of any corresponding law shall not affect—

(a) the previous operation of any such law; or

(b) any right, privilege, obligation, or liability acquired, accrued or incurred under any such law; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law; or

(d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provisions of sub-section (2), anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, form, bye-law or scheme framed, certificate, patent, permit, or licence granted, or registration effected), under such corresponding law shall be deemed to have been done or taken under the corresponding provision of the law as extended to, or in force in, Chandernagore on and from the appointed day and shall continue in force accordingly unless and until superseded by anything done or any action taken under such law.

19. Power to remove difficulties.—(1) If any difficulty arises in relation to the transition from any corresponding law to any law which by virtue of section 17 shall, as from the appointed day, extend to, or come into force in, Chandernagore, the Central Government may, by order in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from any corresponding law) or in connection with the administration of Chandernagore as a part of West Bengal, the State Government may, by order in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(3) No power under sub-section (1) or sub-section (2) shall be exercised by the Central Government, or, as the case may be, the State Government after the expiry of three years from the appointed day.

(4) Any order made under sub-section (1) or sub-section (2) may be made so as to be retrospective to any date not earlier than the appointed day.

THE PREVENTION OF FOOD ADULTERATION ACT, 1954

No. 37 OF 1954

[29th September, 1954]

An Act to make provision for the prevention of adulteration of food.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Prevention of Food Adulteration Act, 1954.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act unless the context otherwise requires,—

(i) “adulterated”—an article of food shall be deemed to be adulterated—

(a) if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality which it purports or is represented to be;

(b) if the article contains any other substance which affects, or if the article is so processed as to affect, injuriously the nature, substance or quality thereof;

(c) if any inferior or cheaper substance has been substituted wholly or in part for the article so as to affect injuriously the nature, substance or quality thereof;

(d) if any constituent of the article has been wholly or in part abstracted so as to affect injuriously the nature, substance or quality thereof;

(e) if the article had been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health;

(f) if the article consists wholly or in part of any filthy putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption;

(g) if the article is obtained from a diseased animal;

(h) if the article contains any poisonous or other ingredient which renders it injurious to health;

(i) if the container of the article is composed, whether wholly or in part, of any poisonous or deleterious substance which renders its contents injurious to health;

(j) if any colouring matter other than that prescribed in respect thereof and in amounts not within the prescribed limits of variability is present in the article;

(k) if the article contains any prohibited preservative or permitted preservative in excess of the prescribed limits;

(l) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities which are in excess of the prescribed limits of variability;

(ii) "Central Food Laboratory" means any laboratory or institute established or specified under section 4;

(iii) "Committee" means the Central Committee for Food Standards constituted under section 3;

(iv) "Director of the Central Food Laboratory" means the person appointed by the Central Government by notification in the Official Gazette as the Director of the Central Food Laboratory and includes any person appointed by the Central Government in like manner to perform all or any of the functions of the Director under this Act;

(v) "food" means any article used as food or drink for human consumption other than drugs and water and includes—

(a) any article which ordinarily enters into, or is used in the composition or preparation of human food, and

(b) any flavouring matter or condiments;

(vi) "Food (Health) Authority" means the Director of Medical and Health Services or the Chief Officer in charge of Health administration in a State by whatever name he is called;

(vii) "local area" means any area, whether urban or rural, declared by the State Government by notification in the Official Gazette, to be a local area for the purposes of this Act;

(viii) "local authority" means in the case of—

(1) a local area which is—

- (a) a municipality, the municipal board or municipal corporation;
- (b) a cantonment, the cantonment authority;
- (c) a notified area, the notified area committee;

(2) any other local area, such authority as may be prescribed by the State Government under this Act;

(ix) "misbranded"—an article of food shall be deemed to be misbranded—

(a) if it is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character;

(b) if it is falsely stated to be the product of any place or country;

(c) if it is sold by a name which belongs to another article of food;

(d) if it is so coloured, flavoured or coated, powdered or polished that the fact that the article is damaged is concealed or if the article is made to appear better or of greater value than it really is;

(e) if false claims are made for it upon the label or otherwise;

(f) if, when sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer and which bear his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act;

(g) if the package containing it, or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular; or if the package is otherwise deceptive with respect to its contents;

(h) if the package containing it or the label on the package bears the name of a fictitious individual or company as the manufacturer or producer of the article;

(i) if it purports to be, or is represented as being, for special dietary uses, unless its label bears such information as may be prescribed concerning its vitamin, mineral, or other dietary properties in order sufficiently to inform its purchaser as to its value for such uses;

(j) if it contains any artificial flavouring, artificial colouring or chemical preservative, without a declaratory label stating that fact, or in contravention of the requirements of this Act or rules made thereunder;

(k) if it is not labelled in accordance with the requirements of this Act or rules made thereunder;

(x) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which an article of food is placed or packed;

(xi) "premises" include any shop, stall, or place where any article of food is sold or manufactured or stored for sale;

(xii) "prescribed" means prescribed by rules made under this Act;

(xiii) "sale" with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article;

(xiv) "sample" means a sample of any article of food taken under the provisions of this Act or of any rules made thereunder;

(xv) the words "unwholesome" and "noxious" when used in relation to an article of food mean respectively that the article is harmful to health or repugnant to human use.

CENTRAL COMMITTEE FOR FOOD STANDARDS AND CENTRAL FOOD LABORATORY

3. The Central Committee for Food Standards.—(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Central Committee for Food Standards to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it under this Act.

(2) The Committee shall consist of the following members, namely:—

(a) the Director-General, Health Services, *ex-officio*, who shall be the Chairman;

(b) the Director of the Central Food Laboratory, *ex-officio*;

(c) two experts nominated by the Central Government;

(d) one representative each of the Central Ministries of Food and Agriculture, Commerce and Industry, Railways and Defence nominated by the Central Government;

(e) one representative each nominated by the Government of each Part A State and Part B State;

(f) two representatives nominated by the Central Government to represent the Part C States;

(g) two representatives of industry and commerce nominated by the Central Government;

(h) one representative of the medical profession nominated by the Indian Council of Medical Research.

(3) The members of the Committee referred to in clauses (c), (d), (e), (f), (g) and (h) of sub-section (2) shall, unless their seats become vacant earlier by resignation, death or otherwise, be entitled to hold office for three years and shall be eligible for renomination.

(4) The functions of the Committee may be exercised notwithstanding any vacancy therein.

(5) The Committee may appoint such and so many sub-committees as it deems fit and may appoint to them persons who are not members of the Committee to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Committee may impose, be delegated to them by the Committee.

(6) The Committee may, subject to the previous approval of the Central Government, make bye-laws for the purpose of regulating its own procedure and the transaction of its business.

4. Central Food Laboratory.—(1) The Central Government may, by notification in the Official Gazette,—

(a) establish a Central Food Laboratory; or

(b) specify any laboratory or institute as a Central Food Laboratory;

to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act.

(2) The Central Government may, after consultation with the Committee, make rules prescribing—

(a) the functions of the Central Food Laboratory;

(b) the procedure for the submission to the said Laboratory of samples of articles of food for analysis or tests, the forms of the Laboratory's reports thereon and the fees payable in respect of such reports;

(c) such other matters as may be necessary or expedient to enable the said Laboratory to carry out its functions.

GENERAL PROVISIONS AS TO FOOD

5. Prohibition of import of certain articles of food.—No person shall import into India—

(i) any adulterated food;

(ii) any misbranded food;

(iii) any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence; and

(iv) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

6. Application of law relating to sea customs and powers of Customs Officers.—(1) The law for the time being in force relating to sea customs and to goods, the import of which is prohibited by

section 18 of the Sea Customs Act, 1878 (VIII of 1878) shall, subject to the provisions of section 16 of this Act, apply in respect of articles of food, the import of which is prohibited under section 5 of this Act, and officers of Customs and officers empowered under that Act to perform the duties imposed thereby on a Customs Collector and other officers of Customs shall have the same powers in respect of such articles of food as they have for the time being in respect of such goods as aforesaid.

(2) Without prejudice to the provisions of sub-section (1) the Customs Collector, or any officer of the Government authorised by the Central Government in this behalf, may detain any imported package which he suspects to contain any article of food the import of which is prohibited under section 5 of this Act and shall forthwith report such detention to the Director of the Central Food Laboratory and, if required by him, forward the package or send samples of any suspected article of food found therein to the said Laboratory.

7. Prohibition of manufacture, sale, etc., of certain articles of food.—No person shall himself or by any person on his behalf manufacture for sale, or store, sell or distribute—

- (i) any adulterated food;
- (ii) any misbranded food;
- (iii) any article of food for the sale of which a licence is prescribed, except in accordance with the conditions of the licence;
- (iv) any article of food the sale of which is for the time being prohibited by the Food (Health) Authority with a view to preventing the outbreak or spread of infectious diseases; or
- (v) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

ANALYSIS OF FOOD

8. Public Analysts.—The State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such qualifications as may be prescribed, to be public analysts and define the local areas over which they shall exercise jurisdiction:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed:

Provided further that the State Government may appoint one public analyst for two or more local areas, such local areas being regarded as one unit for the purposes of this Act.

9. Food Inspectors.—(1) Subject to the provisions of section 14 the State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit, having the prescribed qualifications to be food inspectors for the purposes of this Act, and they shall exercise their powers within such local areas as that Government may assign to them:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed.

(2) Every food inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

10. Powers of food inspectors.—(1) A food inspector shall have power—

(a) to take samples of any article of food from—

(i) any person selling such article;

(ii) any person who is in the course of conveying, delivering or preparing to deliver such article to a purchaser or consignee;

(iii) a consignee after delivery of any such article to him; and

(b) to send such sample for analysis to the public analyst for the local area within which such sample has been taken;

(c) with the previous approval of the health officer having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food with a view to preventing the outbreak or spread of any infectious disease.

(2) Any food inspector may enter and inspect any place where any article of food is manufactured, stored or exposed for sale and take samples of such articles of food for analysis.

(3) Where any sample is taken under clause (a) of sub-section (1) or sub-section (2), its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(4) If any article intended for food appears to any food inspector to be adulterated or misbranded, he may seize and carry away or keep in the safe custody of the vendor such article in order that it may be dealt with as hereinafter provided.

(5) The power conferred by this section includes power to break open any package in which any article of food may be contained or to break open the door of any premises where any article of food may be kept for sale:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called upon to do so:

Provided further that the food inspector shall, in exercising the powers of entry upon, and inspection of any place under this section, follow, as far as may be, the provisions of the Code of Criminal Procedure (Act V of 1898), relating to the search or inspection of a place by a police officer executing a search warrant issued under that Code.

(6) Any material found in the possession of a manufacturer of any article of food or in any of the premises occupied by him as such and being apparently of a kind which may be employed for purposes of adulteration and for the possession of which he is unable to account to the satisfaction of the food inspector, may be seized by the food

inspector and if necessary a sample of such material submitted for analysis to a public analyst.

(7) Where the food inspector takes any action under clause (a) of sub-section (1), sub-section (2), sub-section (4) or sub-section (6), he shall, as far as possible, call not less than two persons to be present at the time when such action is taken and take their signatures.

(8) Any food inspector may exercise the powers of a police officer under section 57 of the Code of Criminal Procedure, 1898 (Act V of 1898) for the purpose of ascertaining the true name and residence of the person from whom a sample is taken or an article of food is seized.

(9) Any food inspector exercising powers under this Act or under the rules made thereunder who—

(a) vexatiously and without any reasonable grounds of suspicion seizes any article of food; or

(b) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty shall be guilty of an offence under this Act and shall be punishable for such offence with fine which may extend to five hundred rupees.

11. Procedure to be followed by food inspectors.—(1) When a food inspector takes a sample of food for analysis, he shall—

(a) give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample;

(b) except in special cases provided by rules under this Act separate the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits; and

(c) (i) deliver one of the parts to the person from whom the sample has been taken:

(ii) send another part for analysis to the public analyst; and

(iii) retain the third part for production in case any legal proceedings are taken or for analysis by the Director of the Central Food Laboratory under sub-section (2) of section 13, as the case may be.

(2) If the person from whom the sample has been taken declines to accept one of the parts, the food inspector shall send intimation to the public analyst of such refusal and thereupon the public analyst receiving a sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the food inspector who shall retain it for production in case legal proceedings are taken.

(3) When a sample of any article of food is taken under sub-section (1) or sub-section (2) of section 10, the food inspector shall send a sample of it in accordance with the rules prescribed for sampling to the public analyst for the local area concerned.

(4) An article of food seized under sub-section (4) of section 10, shall be produced before a magistrate as soon as possible:

Provided that in the case of any article of which samples have been sent to the public analyst for analysis it may be produced on or after the receipt of the report of the public analyst:

Provided further that if an application is made to the magistrate in this behalf by the person from whom any article of food has been seized, the magistrate shall by order in writing direct the food inspector to produce such article before him within such time as may be specified in the order.

(5) If it appears to the magistrate on taking such evidence as he may deem necessary that the article of food produced before him under sub-section (4) is adulterated, he may order it—

(a) to be forfeited to the local authority, or

(b) to be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food, or

(c) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name, or

(d) to be returned back to the owner for being sold under its appropriate name, after taking adequate guarantee from the owner.

(6) If it appears to the magistrate that any such article of food is not adulterated the person from whose possession the article was taken shall be entitled to have it restored to him and it shall be in the discretion of the magistrate to award such person from such fund as the State Government may direct in this behalf, such compensation not exceeding the actual loss which he has sustained as the magistrate may think proper.

12. Purchaser may have food analysed.—Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a food inspector from having such article analysed by the public analyst on payment of such fees as may be prescribed and from receiving from the public analyst a report of his analysis:

Provided that such purchaser shall inform the vendor at the time of purchase of his intention to have such article so analysed:

Provided further that the provisions of sub-section (1), sub-section (2) and sub-section (3) of section 11 shall, as far as may be, apply to a purchaser of article of food who intends to have such article so analysed, as they apply to a food inspector who takes a sample of food for analysis:

Provided also that if the report of the public analyst shows that the article of food is adulterated, the purchaser shall be entitled to get refund of the fees paid by him under this section.

13. Report of public analyst.—(1) The public analyst shall deliver, in such form as may be prescribed, a report to the food inspector of the result of the analysis of any article of food submitted to him for analysis.

(2) After the institution of a prosecution under this Act the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the court for sending the part of the sample mentioned in sub-clause (i) or sub-clause (iii) of clause (c) of sub-section (1) of section 11 to the Director of the Central Food Laboratory for a certificate; and on receipt of the application the court shall first ascertain that the mark and seal or fastening as provided in clause (b) of sub-section (1) of section 11 are intact and may then despatch the part of the sample under its own seal to the Director of the Central Food Laboratory who shall thereupon send a certificate to the court in the prescribed form within one month from the date of receipt of the sample, specifying the result of his analysis.

(3) The certificate issued by the Director of the Central Food Laboratory under sub-section (2) shall supersede the report given by the public analyst under sub-section (1).

(4) Where a certificate obtained from the Director of the Central Food Laboratory under sub-section (2) is produced in any proceeding under this Act, or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860), it shall not be necessary in such proceeding to produce any part of the sample of food taken for analysis.

(5) Any document purporting to be a report signed by a public analyst, unless it has been superseded under sub-section (3), or any document purporting to be a certificate signed by the Director of the Central Food Laboratory, may be used as evidence of the facts stated therein in any proceeding under this Act or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860):

Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory shall be final and conclusive evidence of the facts stated therein.

MISCELLANEOUS

14. Import of food and sale of food in railway and other premises.—(1) The Central Government may, by notification in the Official Gazette, appoint any person to exercise the powers of a food inspector under sections 10 and 11,—

(a) at any major port, air port or land customs station in respect of any article of food which is being imported through such port or station;

(b) in respect of any railway station or group of railway stations where food is being sold:

Provided that the Central Government may, instead of making any appointment under this section, authorise any food inspector in any State in which the major port, air port or land customs station or railway station is situate to exercise such powers.

(2) Every person appointed or authorised under sub-section (1) shall be deemed to be a food inspector for the purposes of this Act.

15. Notification of food poisoning.—The State Government may, by notification in the Official Gazette, require medical practitioners

carrying on their profession in any local area specified in the notification to report all occurrences of food poisoning coming within their cognizance to such officer as may be specified in the notification.

16. Penalties.—(1) If any person—

(a) whether by himself or by any person on his behalf imports into India or manufactures for sale, or stores, sells or distributes, any article of food in contravention of any of the provisions of this Act or of any rule made thereunder, or

(b) prevents a food inspector from taking a sample as authorised by this Act, or

(c) prevents a food inspector from exercising any other power conferred on him by or under this Act, or

(d) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any material which may be employed for the purpose of adulteration, or

(e) being a person in whose safe custody any article of food has been kept under sub-section (4) of section 10, tampers or in any other manner interferes with such article, or

(f) uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory, or by a public analyst or any extract thereof for the purpose of advertising any article of food, or

(g) whether by himself or by any person on his behalf gives to the purchaser a false warranty in writing in respect of any article of food sold by him,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable—

(i) for the first offence, with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both;

(ii) for a second offence with imprisonment for a term which may extend to two years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees;

(iii) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees.

(2) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the

offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct. The expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

17. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

18. Forfeiture of property.—Where any person has been convicted under this Act for the contravention of any of the provisions of this Act or of any rule thereunder, the article of food in respect of which the contravention has been committed may be forfeited to the Government.

19. Defences which may or may not be allowed in prosecutions under this Act.—(1) It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

(2) A vendor shall not be deemed to have committed an offence if he proves—

(i) that the article of food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty in the prescribed form, if any, to the effect that it was of such nature, substance and quality;

(ii) that he had no reason to believe at the time when he sold it that the food was not of such nature, substance and quality; and

(iii) that he sold it in the same state as he purchased it:

Provided that such a defence shall be open to the vendor only if he has submitted to the food inspector or the local authority a copy of the warranty with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to that person:

Provided further that the warranty given by a person resident in any area in which this Act is not in force, shall be a defence to the vendor only if the vendor proves to the satisfaction of the court that he had taken reasonable steps to ascertain and did in fact believe in, the accuracy of the statement contained in the warranty.

(3) Any person by whom a warranty as is referred to in subsection (2), is alleged to have been given shall be entitled to appear at the hearing and give evidence.

20. Cognizance and trial of offences.—(1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority:

Provided that a prosecution for an offence under this Act may be instituted by a purchaser referred to in section 12, if he produces in court a copy of the report of the public analyst along with the complaint.

(2) No court inferior to that of a Presidency magistrate or a magistrate of the first class shall try any offence under this Act.

21. Magistrate's power to impose enhanced penalties.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any Presidency magistrate or any magistrate of the first class to pass any sentence authorised by this Act, in excess of his powers under section 32 of the said Code.

22. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

23. Power of the Central Government to make rules.—(1) The Central Government may, after consultation with the Committee and subject to the condition of previous publication, make rules—

(a) specifying the articles of food or classes of food for the import of which a licence is required and prescribing the form and conditions of such licence, the authority empowered to issue the same and the fees payable therefor;

(b) defining the standards of quality for, and fixing the limits of variability permissible in respect of, any article of food;

(c) laying down special provisions for imposing rigorous control over the production, distribution and sale of any article or class of articles of food which the Central Government may, by notification in the Official Gazette, specify in this behalf including registration of the premises where they are manufactured, maintenance of the premises in a sanitary condition and maintenance of the healthy state of human beings associated with the production, distribution and sale of such article or class of articles;

(d) restricting the packing and labelling of any article of food and the design of any such package or label with a view to preventing the public or the purchaser being deceived or misled as to the character, quality or quantity of the article;

(e) defining the qualifications, powers and duties of food inspectors and public analysts;

(f) prohibiting the sale or defining the conditions of sale of any substance which may be injurious to health when used as food or restricting in any manner its use as an ingredient in the manufacture of any article of food or regulating by the issue of licences the manufacture or sale of any article of food;

(g) defining the conditions of sale or conditions for licence of sale of any article of food in the interest of public health;

(h) specifying the manner in which containers for samples of food purchased for analysis shall be sealed up or fastened up;

(i) specifying a list of permissible preservatives, other than common salt and sugar, which alone shall be used in preserved fruits, vegetables or their products or any other article of food as well as the maximum amounts of each preservative;

(j) specifying the colouring matter and the maximum quantities thereof which may be used in any article of food;

(k) providing for the exemption from this Act or of any requirements contained therein and subject to such conditions, if any, as may be specified, of any article or class of articles of food;

(l) prohibiting or regulating the manufacture, transport or sale of any article known to be used as an adulterant of food;

(m) prohibiting or regulating—

(i) the addition of any water, or other diluent or adulterant to any article of food;

(ii) the abstraction of any ingredient from any article of food;

(iii) the sale of any article of food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated;

(iv) the mixing of two or more articles of food which are similar in nature or appearance;

(n) providing for the destruction of such articles of food as are not in accordance with the provisions of this Act or of the rules made thereunder.

(2) All rules made by the Central Government under this Act shall, as soon as possible after they are made, be laid before both Houses of Parliament.

24. Power of the State Government to make rules.—(1) The State Government may, after consultation with the Committee and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act in matters not falling within the purview of section 23.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) define the powers and duties of the Food (Health) Authority and local authority and jurisdiction of food inspectors and public analysts;

(b) prescribe the forms of licences for the manufacture for sale, for the storage, for the sale and for the distribution of articles of food or any specified article of food or class of articles of food, the form of application for such licences, the conditions subject to which such licences may be issued, the authority empowered to issue the same and the fees payable therefor;

(c) direct a fee to be paid for analysing any article of food or for any matter for which a fee may be prescribed under this Act;

(d) direct that the whole or any part of the fines imposed under this Act shall be paid to a local authority on realisation;

(e) provide for the delegation of the powers and functions conferred by this Act on the State Government or the Food (Health) Authority to subordinate authorities or to local authorities.

(3) All rules made by the State Governments under this Act shall, as soon as possible after they are made, be laid before the respective State Legislatures.

25. Repeal and saving.—(1) If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law corresponding to this Act, that corresponding law shall upon such commencement stand repealed.

(2) Notwithstanding the repeal by this Act of any corresponding law all rules, regulations and bye-laws relating to the prevention of adulteration of food, made under such corresponding law and in force immediately before the commencement of this Act shall, except where and so far as they are inconsistent with or repugnant to the

provisions of this Act, continue in force until altered, amended or repealed by rules made under this Act.

K. Y. BHANDARKAR,

Secy. to the Govt. of India